

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2023 FEB 28 PM 4:02

DEPUTY CLERK 

UNITED STATES OF AMERICA

NO.

v.

GENESIS ADELA ROCHA-OYARVIDE

3-23CR0077-S

FACTUAL RESUME

In support of Genesis Adela Rocha-Oyarvide's plea of guilty to Count One of the Information, Rocha-Oyarvide, the defendant, Tim Menchu, the defendant's attorney, and the United States of America (the "government") stipulate and agree to the following:

ELEMENTS OF THE OFFENSE

To prove the offenses alleged in Count One the Information, charging a violation of 18 U.S.C. §§ 924(a)(1)(A) and 2, that is, False Statement with Respect to Information Required to be Kept in Records of a Licensed Firearms Dealer, the government must prove each of the following elements beyond a reasonable doubt:

- First.* That the dealer was a federally licensed firearms dealer at the time the events occurred;
- Second.* That the defendant made a false statement or representation in a record that the licensed firearms dealer was required by federal law to maintain; and
- Third.* That the defendant made the false statement with knowledge of its falsity.¹

¹ *United States v. Heon Jong Yoo*, 813 F. App'x 949, 951 (5th Cir. 2020).

STIPULATED FACTS

1. Rocha-Oyarvide admits and agrees that on or about July 6, 2022, in the Northern District of Texas, aided and abetted by K.F.G.S., she knowingly made a false statement and representation to Alpine Range Supply Co., a person licensed under the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of Alpine Range Supply Co., in that she executed a Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) Form 4473, Firearms Transaction Record, to the effect that she was the actual buyer of a Kalashnikov USA, model KR-103, 7.62 x 39mm caliber rifle, bearing serial number K3R0012514, whereas in truth and fact, she was not the actual buyer of this firearm because she was buying it for K.F.G.S., in violation of 18 U.S.C. §§ 924(a)(1)(A) and 2, as charged in Count One of the Information.

ATF Form 4473

2. Chapter 44 of Title 18, United States Code, requires that a licensed firearms dealers keep records of the names and addresses of the actual transferees/buyers of the firearms they sell. This information is recorded in Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) Form 4473, Firearms Transaction Record, a record kept and maintained by the dealer as required by law. The ATF Form 4473 must be truthfully completed by the prospective buyer to affect the sale of a firearm from a federally licensed firearms dealer. Specifically, Question 21a on ATF Form 4473 requires the prospective buyer to certify—under penalty of law—if he or she is “the actual transferee/buyer of the firearm(s) listed on this form[.]” This, along with the prospective buyer’s identity and address, is information that the licensed firearms dealer is required to

keep and maintain. (This information is also material to the lawfulness of the firearm sale.) Thus, a person violates 18 U.S.C. § 924(a)(1)(A) by falsely stating on the ATF Form 4473 that he or she is the actual transferee/buyer of the firearm listed on the form. *See, e.g., United States v. Fields*, 977 F.3d 358, 364 (5th Cir. 2020) (defendant violated Section 924(a)(1)(A) by falsely representing on the ATF Form 4473 that she was the actual buyer).

Rocha-Oyarvide's Criminal Conduct

3. On or about July 6, 2022, in the Northern District of Texas, Rocha-Oyarvide purchased a firearm, to wit: a Kalashnikov USA, model KR-103, 7.62 x 39mm caliber rifle, bearing serial number K3R0012514, from Alpine Range Supply Co., a person licensed under the provisions of Chapter 44 of Title 18, United States Code, to deal in firearms. Before purchasing the firearm, Rocha-Oyarvide executed the ATF Form 4473 and she stated and represented on the form that she was the actual buyer of the firearm, whereas in truth and fact, she was not the actual buyer of this firearm. Rocha-Oyarvide in fact knew that this statement and representation was false when she made it because she was really buying the firearm for K.F.G.S. (a citizen and national of Mexico), who had persuaded her to lie and buy the firearm for him. Rocha-Oyarvide thus admits that she violated 18 U.S.C. §§ 924(a)(1)(A) and 2, as charged in Count One of the Information.

4. Rocha-Oyarvide also admits that between October 2021, and June 2022, she made the same false statement and representation on the ATF Form 4473 to another federally licensed firearms dealer regarding the purchase of other firearms that she made


for K.F.G.S. These firearms included a Smith & Wesson, model M&P 15, 5.56 x 45mm/.223 caliber rifle, bearing serial number TS98108; a Winchester, model SXP Defender, 12-gauge shotgun, bearing serial number TR117110YZSP; a Glock, model 41, .45 caliber pistol, bearing serial number BWEN821; a Glock, model 19X, 9mm caliber pistol, bearing serial number BWTA113; and a Glock, model 43X, 9mm caliber pistol, bearing serial number BWLR245.

Conclusion

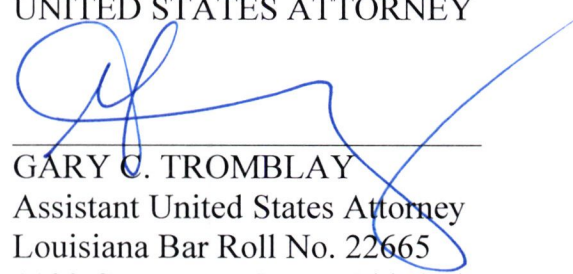
5. The defendant agrees that she committed all the essential elements of the offense to which she is pleading guilty. This factual resume is not intended to be a complete accounting of all the facts and events related to the offense charged in this case. The limited purpose of this statement of facts is to demonstrate that a factual basis exists to support the defendant's guilty plea to Count One of the Information.

AGREED TO AND STIPULATED on this 23 day of February, 2023


GENESIS ADELA ROCHA-OYARVIDE
Defendant


TIM MENCHU
Attorney for Defendant

LEIGHA SIMONTON
UNITED STATES ATTORNEY


GARY C. TROMBLAY
Assistant United States Attorney
Louisiana Bar Roll No. 22665
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Telephone: 214-659-8638
Facsimile: 214-659-8805
Email: gary.tromblay@usdoj.gov